NEBRASKA CRIME VICTIM'S REPARATIONS PROGRAM

Twenty-Third Report

FY08/09 July 1, 2008 - June 30, 2009 and FY09/10 July 1, 2009 - June 30, 2010

January 2011

Dave Heineman, Governor

Michael E. Behm, Executive Director Nebraska Commission on Law Enforcement and Criminal Justice

NEBRASKA'S REPORT

on the

CRIME VICTIM'S REPARATIONS PROGRAM

Issued by:

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REPORT ON NEBRASKA'S CRIME VICTIM'S REPARATIONS PROGRAM

INTRODUCTION

All 50 states, plus the District of Columbia, Puerto Rico, the Virgin Islands, and Guam have Crime Victims Reparations' programs. New Zealand and Great Britain established the first compensation programs in the world. A number of European countries, plus Canada, Australia, New Zealand, and Japan also have victim compensation programs fairly similar to those in the United States. The Office of Victims of Crime has identified the following countries as having crime victim compensation programs: Austria, Belgium, Bermuda, Colombia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Great Britain, Hong Kong, Republic of Ireland, Japan. Luxembourg, The Netherlands, Norway, Philippines, Poland, Portugal, Spain, Sweden, Switzerland, and United Arab Emirates.

The Nebraska Crime Victim's Reparations (CVR) Act was created by Legislative Bill 910. The Bill was passed by the Nebraska Legislature in 1978 and became effective January 1, 1979. The operation of the CVR program is governed by Nebraska Revised Statutes 81-1801 through 81-1842 and Rules and Regulations, Title 80, Chapter 1-7.

The purpose of the program is to assist innocent victims of crime with medical expenses, mental health counseling, loss of wages, funeral bills in cases of homicide, residential crime scene clean-up,

loss of earning power, and other expenses directly related to the criminal act. The program now covers Nebraska residents who are victims of terrorism in foreign countries. Loss of property, pain and suffering, and expenses not directly related to the crime are not covered. Eligible awards are reduced by any collateral sources received or to be received. Collateral sources include insurance, sick leave pay, workers' compensation, or unemployment. A maximum of \$10,000 may be awarded to each claimant.

PROGRAM ADMINISTRATION

The Nebraska Crime Commission is responsible for the administration of Nebraska's CVR program.

Crime Commission staff process the claims for compensation. The processing of claims includes:

- o reviewing each claim for accuracy, completeness, and eligibility;
- o acknowledging receipt of the claim, and requesting additional information if needed;
- o requesting the incident report from the law enforcement agency involved;

- o verifying the expenses being claimed (medical, funeral, loss of wages, etc.) to ensure they are directly related to the criminal act; verifying any payments made toward the expenses and by whom; and determining amounts to be considered for compensation;
- o verifying criminal charges and the disposition of cases;
- o preparing a summary of the information for each claim;
- o submitting all claim information to the Hearing Officer for a determination;
- o preparing and sending a letter to the claimant regarding the Hearing Officer's decision; and
- o processing the payments for the awarded claims.

PROCESSING OF CLAIMS

- Once all information is received, the claim is investigated.
- o The claim and all information received is reviewed by the Hearing Officer, and the Hearing Officer makes a decision to award, deny or request additional information.
- o The claimant is notified of the Hearing Officer's decision.

- o If the claim is denied or reduced, the claimant may file a written appeal.
- O Hearings are conducted by the CVR Committee. The claimant may be present. If the Committee upholds the Hearing Officer's decision to deny, the claimant may appeal in District Court.

REASONS A CLAIM MAY BE DENIED

A claim for compensation will be denied if:

- o the incident was not reported to law enforcement within three days;
- o the claim for compensation was not filed with the CVR program within two years from the date of the incident;
- o the victim did not cooperate with the criminal justice system in the investigation and prosecution of the crime;
- o the victim did not submit the required information to the CVR program; or
- o a victim was not an innocent victim of a crime or the victim's misconduct caused or contributed to the incident.

APPEALS

If a claim for compensation is denied by the Hearing Officer, the claimant has the right to appeal the decision to the CVR Committee. The appeal must be made in writing and received within 30 days from the date the decision was mailed to the claimant.

The CVR Committee consists of five members of the Nebraska Crime Commission who are appointed by the Governor for a term of four years, and two members from the Public at Large. Members are reimbursed for actual expenses incurred in the performance of During fiscal year 08/09 the their duties. CVR Committee consisted of the following members: Scott Arnold. William Brueggemann, Scot Ford, James Riskowski, and Derek Vaughn. In September 2009 G. Randall Hansen was named to one of the Public at Large positions. In October 2009 Michael McLarney was named to the other Public at Large position. In February 2010 Candice Batton replaced Scott Arnold and Brenda Smith replaced James Riskowski. If the CVR Committee upholds the Hearing Officer's decision to deny a claim, the claimant may appeal in district court within 30 days of the Committee's action.

FUNDING

The Nebraska CVR program is funded through general fund appropriations, federal compensation funds, and 5 percent of inmates' wages from federally certified correctional industry programs. Beginning in fiscal year 88/89, 5 percent of inmates' salaries earned in the Federal Prison Industries program was transferred to the CVR fund. The amount of funds received from the prison industries program averages \$33,000 per year.

While the CVR program has been operational since 1979, the Legislature did not fund the program during fiscal years 85/86, 86/87, and

87/88, due to a budget shortfall. The stability of the funding of the CVR program continues to remain a problem. In fiscal year 02/03 the general fund appropriation was reduced from \$201,600 to \$20,000. More than 80% of the CVR programs in other states are funded with revenue from court fees or assessments paid by the offenders. Fortunately, LB 510 was passed by the Nebraska Legislature in 2010 and signed by the Governor. This bill imposes a \$1 court fee for each misdemeanor or felony conviction. It also requires the Director of Correctional Services to withhold up to 5% of the net wages of inmates assigned to the work release program. Nebraska's CVR program receives 75% of the revenue from these two sources. The estimated annual revenue from LB 510 deposited to the CVR program is \$144,000.

The budget for fiscal year 08/09 from all funding sources was \$81,821 and the budget for fiscal year 09/10 from all funding sources was \$121,514.

	Claims Received	<u>Awarded</u>
FY 90/91	176	\$200,233
FY 91/92	180	\$328,786
FY 92/93	195	\$341,527
FY 93/94	132	\$234,048
FY 94/95	193	\$274,345
FY 95/96	200	\$310,737
FY 96/97	224	\$378,897
FY 97/98	262	\$384,999
FY 98/99	221	\$426,884
FY 99/00	222	\$393,763
FY 00/01	206	\$430,611
FY 01/02	204	\$243,794
FY 02/03	187	\$223,325
FY 03/04	186	\$268,147
FY 04/05	92	\$142,536
FY 05/06	57	\$89,488
FY 06/07	87	\$92,524
FY 07/08	62	\$101,685
FY 08/09	46	\$89,588
FY 09/10	81	\$62,848

FEDERAL FUNDS

The Victims of Crime Act was signed into law by President Reagan in 1984. The Act provides for fines to be levied on offenders convicted of federal crimes. Fifty percent of the funds collected are utilized to assist state compensation programs. The amount to be paid each state is based on 60 percent of the state's non-federal funds disbursed during the previous federal fiscal year. To be eligible for federal funds, certain conditions must be met. Also, programs must comply with statistical reporting requirements.

During fiscal year 08/09 Nebraska received \$24,000 and during fiscal year 09/10 Nebraska Received \$60,000. This amount is based on 60 percent of the actual amount of state funds disbursed to crime victims during the 08/09 and 09/10 Federal fiscal years.

ACTIVITIES

Public awareness of the CVR program is provided through the distribution of brochures by law enforcement and prosecutor's agencies, through public speaking engagements and public service announcements, and through the efforts of victim/witness units and domestic violence/sexual assault task forces.

The CVR Committee conducted two hearings during fiscal year 08/09 and one hearing during fiscal year 09/10 for claimants denied by the Hearing Officer.

The Crime Commission is a member of the National and International Association of Crime Victim Compensation Boards, the National Organization for Victim Assistance (NOVA), and the National Association of VOCA Assistance Administrators.

2008 and 2009 LEGISLATIVE INITIATIVES

LB 598 (introduced and passed in 2009) allows for the creation of a non-profit organization, to be known as the Community Trust. After a tragedy of violence or a natural disaster, the Community Trust may accept contributions from the public and make distributions to victims. The Crime Victim's Reparations (CVR) Committee acts as the oversight committee for the Community Trust. LB 598 also added two public members to the CVR Committee. The effective date of LB 598 was August 30, 2009.

LB 510 (introduced in 2009 and passed in 2010) imposes a \$1 court fee for each misdemeanor or felony conviction. It also requires the Director of Correctional Services to withhold up to 5% of the net wages of inmates assigned to the work release program. Nebraska's CVR program receives 75% of the revenue from these two new sources of funds. The estimated annual revenue to be deposited to our CVR program as a result of LB 510 is \$144,000. The effective date of LB 510 was July 15, 2010.

PROGRAM SUMMARY

Fiscal Year 08/09

PROGRAM SUMMARY FY 08/09

Claims Pending as of July 1, 2008 New Claims Received Supplemental Claims and Resubmitted Claims DUI/DWI Reopened Appeals TOTAL CLAIMS	13 40 1 3 -2 59
Claims Considered Claims Awarded Claims Denied (includes 2 not eligible)	48 22 26
Claims Pending as of June 30, 2009	11
FUNDS EXPENDED	
Federal Funds General Funds Prison Industry Funds Total Expended	\$ 24,000.00 20,000.00 36,947.98 \$ 80,947.98
CLAIM ACTION	
Awarded in FY 08/09	\$ 89,588.13

BREAKDOWN O	FAWARDS
Physicians' Fees	\$ 18,154.68
Hospital Expenses	18,269.22
Dental Expenses	-0-
Prescriptions	1,793.28
Other Expenses	-0-
Mental Health Counseling	-0-
Loss of Wages	7,121.15
Funeral Expenses	44,249.80
Loss of Support	-0-
Crime Scene Clean-up	-0-
Attorney Fees	-0-
TOTAL	\$ 89,588.13

CLAIMS A BREAKDOWN BY	
Assault	-0-
Assault (Domestic)	10,980.25
Homicide	44,249.80
Sexual Assault - Adult	2,513.51
Child Sexual Assault/Physical Abuse	-0-
DWI/DUI	11,637.57
Vehicular	-0-
Kidnapping	10,000.00
Robbery	10,207.00
Other	-0-
TOTAL	\$ 89,588.13

	CLAIMS CONS BREAKDOWN BY V		
AGE	MALE	FEMALE	TOTALS
0-17	1	3	4
18-64	28	16	44
65+	0	0	0
TOTALS	29	19	48

CLAIMS CONS BREAKDOWN BY TY	
Assault	10
Assault (Domestic)	5
Homicide	16
Sexual Assault – Adult	4
Child Sexual Assault/Physical Abuse	2
DWI/DUI	3
Vehicular	0
Kidnapping	1
Robbery	5
Other	2
TOTAL	48

	ONSIDERED I'S EMPLOYMENT STATUS
Employed	28
Self-employed	0
Unemployed	16
Retired	0
Disabled	0
Student	4
Child	0
Homemaker	0
TOTALS	48

BREAKDOWN OF CLAIMS BY LEGISLATIVE DISTRICT - FY 08/09

Distr	ict No./County	Claims Awarded	Claims Denied	Amount of Award
1	Cass, Johnson, Nemaha,	0	1	0.00
2	Otoe, Pawnee & Richardson Cass, Otoe & Sarpy	2	2	\$10,396.15
2 3 4 5	Sarpy	2	2	0.00
4	Douglas	1	Ŏ	207.00
5	Douglas & Sarpy	0	1	0.00
6	Douglas	0	0	0.00
6 7 8 9	Douglas	0	0	0.00
8	Douglas	0	1	0.00
10	Douglas	0 2	0	0.00
10	Douglas	4	Ü	10,980.25
11	Douglas	5	2	17,414.59
12	Douglas	5 0	2 1 2 0	0.00
13	Douglas	0	2	0.00
14	Sarpy	1		4,689.68
15	Dodge	0	1	0.00
16	Burt, Cuming Stanton, Thurs & Washington	ton 1	1	1,095.00
17	Dakota, Dixon & Wayne	0	0	0.00
18	Douglas & Washington	0	0	0.00
19	Madison	$\begin{array}{c} 0 \\ 2 \end{array}$	4	0.00
20	Douglas	2	0	13,520.10
21	Lancaster & Saunders	0	0	0.00
22	Colfax & Platte	0	0	0.00
23	Butler, Colfax, Douglas,	0	1	0.00
24	Sarpy & Saunders Polk, Seward & York	0	0	0.00
25 25	Lancaster	0	0	$0.00 \\ 0.00$
	Milousiei	V	V	0.00
26	Lancaster	Õ	0	0.00
27	Lancaster	0	1 1 1	0.00
28	Lancaster	0]	0.00
29 30	Lancaster Gage & Lancaster	0 0	0	0.00
30	Guge & Luncuster	U	U	0.00

BREAKDOWN OF CLAIMS BY LEGISLATIVE DISTRICT - FY 08/09

Distri	ct No./County	Claims Awarded	Claims Denied	Amount of Award
31 32	Douglas Fillmore, Jefferson, Saline & Thayer	1	0 1	\$5,000.00 0.00
33 34	Adams & Hall Hall, Hamilton, Merrick, Nanc & Polk	ce 0 0	0	$0.00 \\ 0.00$
35	Hall	0	1	0.00
36 37 38	Buffalo & Dawson Buffalo & Kearney Clay, Franklin, Gosper, Harla Nuckolls, Phelps & Webster	0 0 0 0	0 0 0	0.00 0.00 0.00
39 40	Douglas, Sarpy & Washington Cedar, Holt, Knox & Pierce	0	0	$0.00 \\ 0.00$
41	Antelope, Boone, Garfield, Greeley, Hall, Howard, Sherm Valley & Wheeler	0 an,	0	0.00
42 43	Lincoln Blaine, Boyd, Brown, Cherry, Custer, Holt, Hooker, Keya Pa Logan, Loup, McPherson, Roc & Thomas	0 1 lha, k	0	0.00 5,000.00
44	Chase, Dawson, Dundy, Front Furnas, Hayes, Hitchcock, Pe. & Red Willow		0	0.00
45	Sarpy	0	0	0.00
46 47	Lancaster Arthur, Banner, Cheyenne, De Garden, Keith, Kimball & Moi		0	$0.00 \\ 0.00$
48 49	Scotts Bluff Box Butte, Cherry, Dawes, Gro Scott Bluff, Sheridan & Sioux	1	0	4,238.55 0.00
Out-o	f-State*	5	4	17,046.81
Τ	OTALS	22	26	\$ 89,588.13

^{*}Crime occurred in Nebraska, but the claimant's residence is in another state

If a Nebraska resident is victimized in another state, that state's CVR program pays his or her claim if eligible. If the state does not have sufficient funds in its program and the claimant is a resident of Nebraska, then the claimant may submit a claim to the Nebraska Crime Victim's Reparations program.

		BREA	BREAKDOWN OF		CLAIMS CONSIDERED VARDS BY EXPENSES A	DERED ENSES AN	CLAIMS CONSIDERED AWARDS BY EXPENSES AND TYPE OF CRIME	F CRIME			
	Physician Fees	Hospital	Dental	Prescriptions	Other	Mental Health	Loss	Funeral	Loss of Support	Crime Scene	Attorney Fees
Assault	-0-	-0-	0	-0-	-0-	o o	wages -0-	-0-	-0-	Cleanup -0-	-0-
Assault Domestic)	10,980.25	-0-	φ	-0-	-0-	-0-	-0-	0-	-0-	-0-	-0-
Homicide	-0-	-0-	-0-	-0-	-0-	-0-	-0-	44,249.80	-0-	-0-	-0-
Sexual Assault-Adult	240.65	2,113.52	-0-	159.34	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Child Sexual Assault/	-0-	0-	- <u></u> -	0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Priysical Abuse DWI/DUI	3,048.83	1,043.87	-0-	1,623.12	-0-	-0-	5,921.75	0-	0-	-0-	-0-
Robbery	2,983.51	6,013.27	-0-	10.82	-0-	-0-	1,199.40	-0-	-0-	-0-	-0-
Kidnapping	901.44	9,098.56	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
TOTALS	18,154.68	18,269.22	-0-	1,793.28	0.00	0.00	7,121.15	44,249.80	-0-	-0-	-0-

PROGRAM SUMMARY

Fiscal Year 09/10

PROGRAM SUMMARY FY 09/10

Claims Pending as of July 1, 2009 New Claims Received	10 81
Appeals withdrawn Appeals	1
TOTAL CLAIMS	93
Claims Considered Claims Awarded Claims Denied (includes 2 not eligible) Appeal Decision	60 16 43 1
Claims Pending as of June 30, 2010	33
FUNDS EXPENDED	
Federal Funds General Funds	\$ 36,913.01
Prison Industry Funds ARRA Funds	20,000.00 272.35 15,663.00
Total Expended	\$ 72,848.36
CLAIM ACTION	

BREAKDOWN O	F AWARDS
Physicians' Fees	\$ 4,596.85
Hospital Expenses	22,649.49
Dental Expenses	-()-
Prescriptions	144.26
Other Expenses	-()-
Mental Health Counseling	-()-
Loss of Wages	1,693.86
Funeral Expenses	33,763.90
Loss of Support	-0-
Crime Scene Clean Up	-0-
Attorney Fees	-0-
TOTAL	\$62,848.36

	AWARDED TYPE OF CRIME
Assault	-0-
Assault (Domestic)	\$18,181.22
Homicide	35,349.21
Sexual Assault - Adult	2,004.26
Child Sexual Assault/Physical Abuse	5,693.03
DWI/DUI	-0-
Vehicular	-0-
Kidnapping	-0-
Robbery	1,620.64
Other	-0-
TOTAL	\$ 62,848.36

190 191 191 191 191 191 191 191 191 191	CLAIMS CONS BREAKDOWN BY V		
AGE	MALE	FEMALE	TOTALS
0-17	5	4	9
18-64	34	17	51
65+	0	0	0
TOTALS	39	21	60

CLAIMS CONS BREAKDOWN BY TY	
Assault	28
Assault (Domestic)	11
Homicide	9
Sexual Assault - Adult	6
Child Sexual Assault/Physical Abuse	3
DWI/DUI	0
Vehicular	1
Kidnapping	0
Robbery	1
Other	1
TOTAL	60

CLAIMS CO BREAKDOWN BY VICTIM	
Employed	25
Self-employed	0
Unemployed	23
Retired	0
Disabled	4
Student	4
Child	4
Homemaker	0
TOTALS	60

BREAKDOWN OF CLAIMS BY LEGISLATIVE DISTRICT - FY 09/10

Distri	ict No./County	Claims Awarded	Claims Denied	Amount of Award
1	Cass, Johnson, Nemaha, Otoe, Pawnee & Richardson	0	0	0.00
2	Cass, Otoe & Sarpy	0	0	0.00
3	Sarpy	$\stackrel{1}{0}$	0	2,004.26
2 3 4 5	Douglas Douglas & Sarpy	1	ő	0.00 272.35
6	Douglas	1	2 1	5,000.00
7 8	Douglas Douglas	<u>i</u> 1	$\stackrel{1}{0}$	4,876.00 3,308.00
9	Douglas	1 2 0	0	2,147.97
10	Douglas	0	1	0.00
11	Douglas	2	8 1	10,000.00
12	Douglas	0	1	0.00
13 14	Douglas Sarpy	1 1	0 1	5,000.00 5,473.21
15	Dodge	Ô	Ô	0.00
16	Burt, Cuming Stanton, Thurst & Washington	on 0	1	0.00
17	Dakota, Dixon & Wayne	0	0	0.00
18	Douglas & Washington	0	0	0.00
19 20	Madison	0	1	0.00
20	Douglas	0	1	0.00
21	Lançaster & Saunders	0	4	0.00
22 23	Colfax & Platte	0	0	0.00
23	Builer, Colfax, Douglas, Sarpy & Saunders	0	0	0.00
24	Polk, Seward & York	0	0	0.00
25	Lancaster	0	0	0.00
26	Lancaster	0	1	0.00
27	Lancaster	0	4 3 2 0	0.00
28 29	Lancaster Lancaster	$\stackrel{1}{0}$	<u>3</u> 2	1,912.90 0.00
30	Gage & Lancaster	ŏ	$\tilde{0}$	0.00

BREAKDOWN OF CLAIMS BY LEGISLATIVE DISTRICT - FY 09/10

Distri	ct No./County	Claims Awarded	Claims Denied	Amount of Award
31 32	Douglas Fillmore, Jefferson, Saline & Thayer	10	10	5,693.03 0.00
33 34	Adams & Hall Hall, Hamilton, Merrick, Nanc & Polk	ce 0 0	$\stackrel{1}{0}$	$0.00 \\ 0.00$
35	Hall	0	1	0.00
36 37 38	Buffalo & Dawson Buffalo & Kearney Clay, Franklin, Gosper, Harla Nuckolls, Phelps & Webster	n, 1 0 0	1 0 0	4,140.79 0.00 0.00
39 40	Douglas, Sarpy & Washington Cedar, Holt, Knox & Pierce	0	$\frac{0}{2}$	$0.00 \\ 0.00$
41	Antelope, Boone, Garfield, Greeley, Hall, Howard, Sherm Valley & Wheeler	0 an,	0	0.00
42 43	Lincoln Blaine, Boyd, Brown, Cherry, Custer, Holt, Hooker, Keya Pa Logan, Loup, McPherson, Roc & Thomas	$0 \\ ha, \\ k$	2 0	5,000.00 0.00
44	& Inomas Chase, Dawson, Dundy, Front Furnas, Hayes, Hitchcock, Pe & Red Willow	ier, 0	0	0.00
45	Sarpy	0	0	0.00
46 47	Lancaster Arthur, Banner, Cheyenne, De Garden, Keith, Kimball & Moi		0	$0.00 \\ 0.00$
48 49	Scotts Bluff Box Butte, Cherry, Dawes, Gr. Scott Bluff, Sheridan & Sioux	0	0	0.00 0.00
Out-o	f-State*	1	5	8,019.85
Ί	OTALS	16	44	\$ 62,848.36

^{*}Crime occurred in Nebraska, but the claimant's residence is in another state

If a Nebraska resident is victimized in another state, that state's CVR program pays his or her claim if eligible. If the state does not have sufficient funds in its program and the claimant is a resident of Nebraska, then the claimant may submit a claim to the Nebraska Crime Victim's Reparations program.

		BREA	BREAKDOWN OF A	CLAIN I OF AWARDS	CLAIMS CONSIDERED VARDS BY EXPENSES A	DERED ENSES AL	CLAIMS CONSIDERED WARDS BY EXPENSES AND TYPE OF CRIME	F CRIME			
	Physician Fees	Hospital	Dental	Prescriptions	Other	Mental Health	Loss of Wages	Funeral	Loss of Support	Crime Scene Cleanun	Attorney Fees
Assault	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-		-0-
Assault (Domestic)	2,213.99	15,939.05	-0-	90.27	-0-	-0-	1,523.22	-0-	-0-	0	-0-
Homicide	-0-	o o	-0-	101	-0-	-0-	-0-	33,763.90	-0-	-0-	-0-
Sexual Assault-Adult	-0-	2,004.26	-0-	0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Child Sexual Assault/ Physical Abuse	932.86	4,706.18	-0-	53.99	0-	-0-	-0-	-0-	-0-	0-	-0-
DWI/DUI	-0-	101	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Robbery	1,450.00	-0-	-0-	-0-	-0-	-0-	170.64	-0-	-0-	-0-	-0-
Other	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
TOTALS	4,596.85	22,649.49	-0-	144.26	0.00	0.00	1,693.86	33,763.90	-0-	-0-	-0-